

MOTIONS TO DISMISS INFORMATION ON COLLECTION OF DATA

The following tables and graphs on motions to dismiss before and after *Ashcroft v. Iqbal* are based on data collected electronically from the 94 district courts' docket entries. This information is not routinely included in the Administrative Office statistical reports for the courts. Though the data was reviewed for accuracy, some quality control steps that are part of the Administrative Office's reports were not applied. The electronically collected information is from the courts' docket entries, and the underlying docketed motions and orders were not read. As a result, if there are errors in the docket entry, those errors are in the data. The Federal Judicial Center is engaged in a study that will include reviewing underlying motions to dismiss and orders in a large number of randomly sampled cases, providing more information and an additional check on accuracy.

Certain information could not be collected electronically from the docket entries and is not reflected in the data. The data does not distinguish among the different types of motions to dismiss under Rule 12 of the Federal Rules of Civil Procedure. Though most motions to dismiss are filed under Rule 12(b)(6) for failure to state a claim on which relief can be granted, motions to dismiss filed under Rule 12(b)(1-5) and (7) are included in the data. The assumption is that the rate of motions to dismiss under Rule 12(b)(1-5) and (7) has remained stable during the period. The Federal Judicial Center study will include this information.

The data does not reveal whether motions to dismiss were granted with or without leave to amend, and, if with leave to amend, whether the case continued with an amended complaint. The Federal Judicial Center study will also include this information.

The courts do not rule on a significant number of motions to dismiss, often because the case settles without court intervention. Although the data includes the filing of these motions, the data does not include the disposition of these motions.

Finally, the data excludes Multi-District Litigation (MDL) cases.

Cases and Motions to Dismiss Filed From May 2007 through June 2010

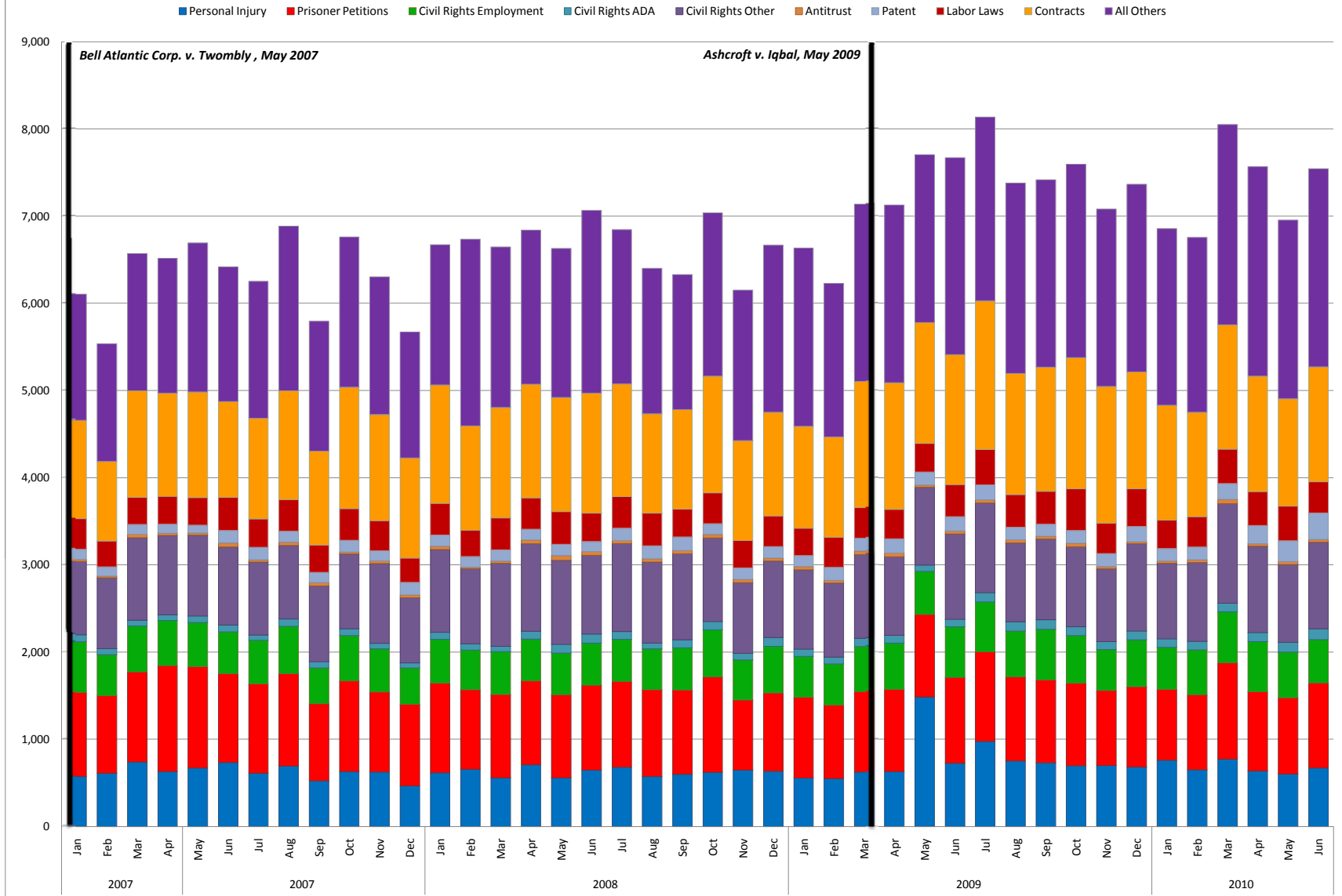
	2007												2008												2009												2010					
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
CASES FILED	18,108	16,390	19,178	18,241	19,445	18,583	18,303	20,727	17,680	21,104	19,093	16,107	19,086	21,952	17,836	19,904	18,756	19,944	19,017	17,483	18,251	18,969	15,786	18,745	19,755	17,134	20,699	20,015	19,091	21,006	22,552	20,523	20,516	20,553	18,393	19,832	17,074	17,694	21,515	21,710	18,724	21,024
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Personal Injury	1,938	1,933	2,092	1,669	2,676	1,733	1,788	2,465	1,685	2,177	2,314	1,544	2,006	6,097	1,640	1,716	2,238	3,766	2,140	1,707	2,003	1,664	1,518	2,353	1,490	1,613	3,012	2,484	2,751	3,055	4,164	3,147	3,419	3,314	3,187	3,424	2,013	2,375	2,858	3,545	2,189	2,755
Prisoner Petitions	4,666	3,929	4,736	4,576	4,593	4,788	4,878	4,747	4,190	5,020	4,293	3,971	5,188	4,533	4,796	4,964	4,308	4,434	4,666	4,229	4,185	4,472	3,600	4,427	4,309	4,079	4,606	4,610	4,179	4,670	4,715	4,289	4,223	4,218	3,695	4,206	3,987	3,883	4,960	4,408	4,251	4,699
Civil Rights Employment	1,114	967	1,049	974	1,132	1,165	1,098	1,182	1,146	1,185	1,047	1,083	1,042	999	957	1,090	1,108	1,184	1,197	1,108	1,245	1,251	1,015	1,219	967	1,015	1,138	1,246	1,095	1,300	1,241	1,225	1,314	1,203	1,103	1,271	997	1,011	1,302	1,203	1,098	1,374
Civil Rights Other	1,211	1,187	1,456	1,309	1,483	1,337	1,318	1,482	1,274	1,518	1,239	1,275	1,403	1,335	1,303	1,342	1,340	1,319	1,384	1,378	1,401	1,488	1,220	1,386	1,178	1,349	1,436	1,366	1,267	1,457	1,591	1,314	1,437	1,412	1,271	1,321	1,181	1,266	1,529	1,427	1,310	1,463
Civil Rights ADA	148	164	205	183	187	214	184	215	228	209	202	180	220	219	232	197	201	250	294	222	252	295	203	308	245	251	291	231	246	275	324	281	294	276	257	286	211	282	285	373	313	373
Antitrust	38	63	82	40	28	39	27	31	57	43	29	34	58	76	115	70	126	43	48	48	53	37	52	30	36	59	75	49	41	60	63	48	47	58	48	29	27	45	23	48	44	35
Patent	212	192	266	218	274	285	214	230	221	302	247	201	225	250	237	266	237	244	233	213	195	237	174	246	217	214	286	267	236	213	250	221	233	224	215	229	195	288	318	304	249	296
Labor Laws	1,374	1,285	1,490	1,296	1,397	1,390	1,403	1,449	1,174	1,475	1,250	1,235	1,425	1,400	1,407	1,505	1,370	1,426	1,517	1,274	1,397	1,473	1,236	1,323	1,550	1,339	1,687	1,532	1,345	1,458	1,566	1,699	1,479	1,588	1,357	1,441	1,335	1,426	1,665	2,186	1,497	1,618
Contracts	2,538	2,144	2,654	3,338	2,602	2,615	2,541	3,366	2,729	3,673	3,654	2,470	2,751	2,361	2,368	3,725	2,683	2,527	2,507	2,597	2,787	2,963	2,376	2,805	5,185	2,680	2,940	2,855	2,674	2,853	2,881	2,730	2,680	2,814	2,345	2,483	2,322	2,460	2,869	2,614	2,508	2,646
All Others	4,869	4,526	5,148	4,638	5,073	5,017	4,852	5,560	4,976	5,502	4,818	4,114	4,768	4,682	4,781	5,029	5,145	4,751	5,031	4,707	4,733	5,089	4,392	4,648	4,578	4,535	5,228	5,375	5,257	5,665	5,757	5,569	5,390	5,446	4,915	5,142	4,806	4,658	5,706	5,602	5,265	5,765
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
MOT. DISMISS	6,107	5,537	6,573	6,518	6,694	6,419	6,252	6,887	5,796	6,763	6,306	5,672	6,674	6,737	6,647	6,839	6,630	7,068	6,846	6,403	6,332	7,038	6,151	6,666	6,635	6,229	7,140	7,129	7,706	7,672	8,139	7,382	7,418	7,596	7,081	7,367	6,856	6,757	8,051	7,567	6,956	7,544
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Personal Injury	573	612	740	631	671	733	612	695	523	631	625	466	617	656	560	708	559	649	679	572	600	621	648	633	557	549	625	631	1,484	726	977	752	731	698	699	682	761	651	771	638	601	671
Prisoner Petitions	964	887	1,032	1,215	1,163	1,019	1,022	1,058	885	1,038	918	937	1,027	913	954	962	953	972	986	998	965	1,094	803	899	925	843	921	940	947	984	1,025	963	951	946	862	920	812	860	1,105	907	875	975
Civil Rights Employment	582	474	528	518	505	482	501	544	410	522	496	415	502	455	493	480	478	484	483	467	484	541	461	536	470	474	519	534	495	582	575	528	581	546	469	538	481	516	588	575	525	498
Civil Rights Other	840	810	945	911	927	896	835	845	869	856	915	747	950	863	954	1,005	963	905	1,010	931	987	959	810	879	909	847	962	901	894	977	1,030	902	927	917	834	1,001	867	903	1,143	989	891	994
Civil Rights ADA	79	69	67	64	76	77	62	82	72	78	63	60	82	71	59	89	101	102	89	66	93	96	74	98	82	78	93	88	72	86	105	106	109	102	92	102	89	98	97	106	113	123
Antitrust	23	20	42	26	25	46	27	36	37	24	32	32	36	19	24	43	54	41	33	36	37	38	39	35	39	33	39	43	26	36	36	39	30	40	25	24	25	31	49	27	34	32
Patent	118	106	112	102	89	142	144	126	118	136	115	142	130	121	129	124	131	117	141	151	156	126	132	133	125	150	147	163	148	162	172	142	139	146	150	175	143	148	182	212	239	303
Labor Laws	352	297	311	319	317	380	326	364	315	360	343	281	363	302	367	358	372	325	363	372	319	352	314	349	315	345	351	337	329	368	405	375	378	478	347	431	326	346	393	389	396	359
Contracts	1,127	912	1,222	1,183	1,210	1,101	1,153	1,249	1,075	1,395	1,218	1,146	1,358	1,195	1,265	1,303	1,309	1,374	1,291	1,140	1,141	1,339	1,146	1,189	1,168	1,150	1,448	1,455	1,386	1,493	1,705	1,391	1,422	1,505	1,570	1,340	1,319	1,197	1,427	1,322	1,233	1,317
All Others	1,449	1,350	1,574	1,549	1,711	1,543	1,570	1,888	1,492	1,723	1,581	1,446	1,609	2,142	1,842	1,767	1,710	2,099	1,771	1,670	1,550	1,872	1,724	1,915	2,045	1,760	2,035	2,037	1,925	2,258	2,109	2,184	2,150	2,218	2,033	2,154	2,023	2,007	2,296	2,402	2,049	2,272
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
GRANTED	2,324	2,137	2,872	2,125	2,345	2																																				

Cases and Motions to Dismiss Filed From May 2007 through June 2010

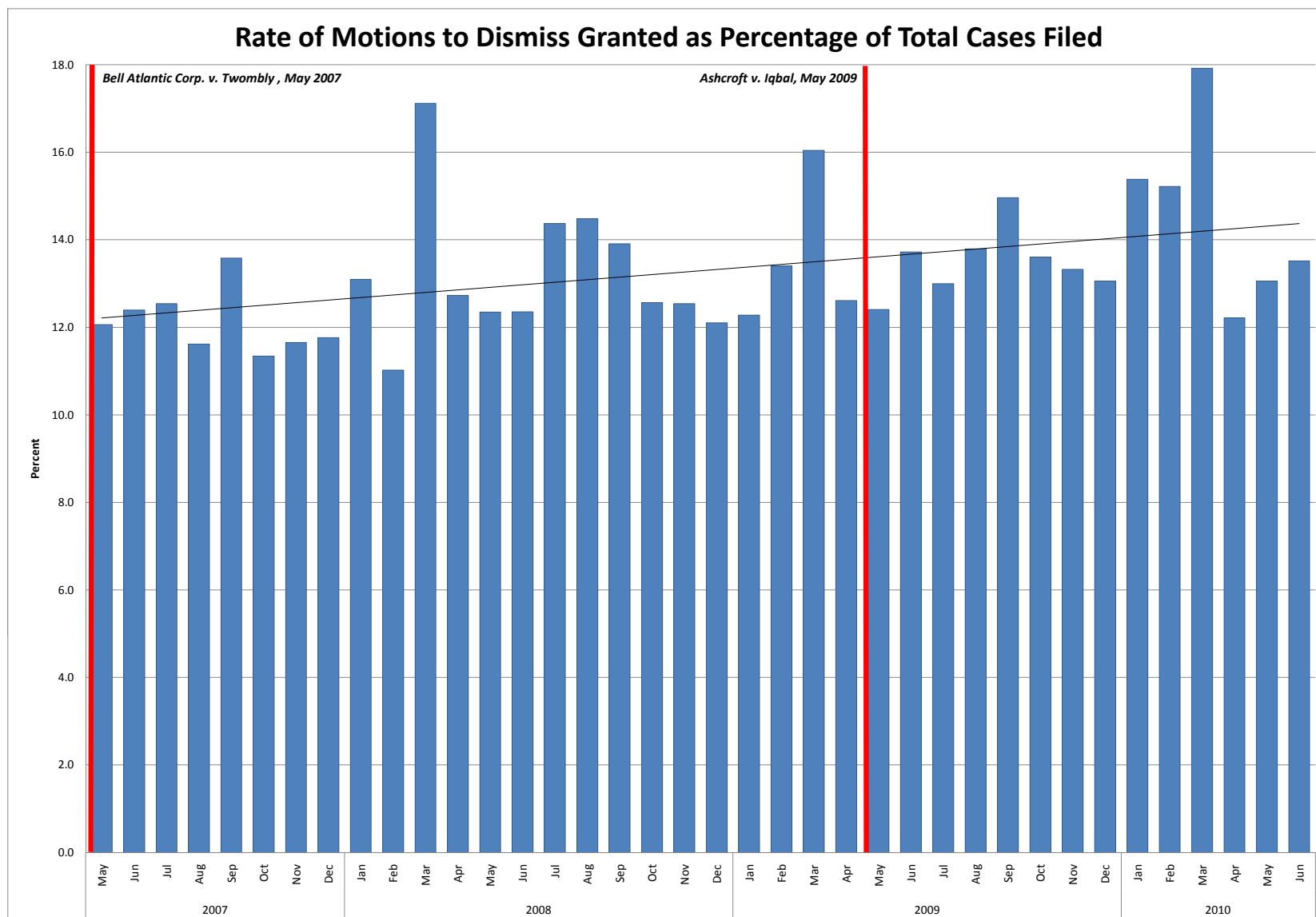
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	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
DENIED	858	823	1,237	747	915	802	845	952	1,073	787	753	703	956	890	1,684	847	809	811	959	921	1,154	822	654	826	890	924	1,281	892	861	1,011	1,037	1,019	1,322	885	924	938	941	1,003	1,430	918	872	1,071
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Personal Injury	64	75	108	85	80	76	56	76	70	44	58	58	79	82	116	77	68	73	84	73	103	79	46	61	70	80	94	85	88	73	81	74	97	86	67	65	76	91	88	82	74	110
Prisoner Petitions	109	128	178	83	105	101	118	120	171	94	76	81	132	116	189	81	62	95	144	132	161	92	81	96	112	107	183	99	117	127	136	115	260	89	97	100	113	129	191	107	111	95
Civil Rights Employment	100	73	95	61	96	73	89	91	95	68	65	54	77	72	75	83	74	71	87	73	86	66	62	70	73	72	93	71	71	89	90	75	87	76	93	74	79	59	94	73	79	84
Civil Rights Other	119	101	191	119	113	110	93	112	134	115	78	112	129	132	156	130	129	104	122	123	137	84	62	120	141	123	169	95	102	130	135	113	126	123	90	77	125	114	186	91	90	134
Civil Rights ADA	8	10	10	10	8	10	9	9	8	4	8	7	7	5	11	6	10	13	14	12	17	20	8	6	7	21	12	17	18	9	12	5	19	14	14	21	14	20	15	9	14	21
Antitrust	6	4	6	1	10	3	1	7	4	5	3	-	-	4	7	11	3	8	2	5	4	-	4	1	5	3	28	2	6	5	13	6	5	4	4	2	6	6	10	7	1	7
Patent	20	18	32	10	19	13	16	23	44	28	18	16	27	20	30	20	19	14	17	20	35	18	7	28	20	20	29	11	10	17	24	28	40	12	10	12	20	16	45	23	24	24
Labor Laws	40	53	69	57	66	54	43	46	42	62	38	41	66	53	73	47	53	57	55	61	73	57	48	40	56	52	73	53	46	55	59	66	57	62	61	72	65	63	82	50	47	54
Contracts	168	166	228	142	218	165	217	210	226	167	188	142	201	171	255	167	183	156	215	195	224	198	148	173	198	195	245	182	172	227	239	219	277	192	224	238	195	205	274	200	184	236
All Others	224	195	320	179	200	197	203	258	279	200	221	192	238	235	772	225	208	220	219	227	314	208	188	231	208	251	355	277	231	279	248	318	354	227	264	277	248	300	445	276	248	306
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
MOOT	252	236	348	249	266	218	260	334	263	259	214	206	316	286	298	368	316	268	293	258	336	268	213	278	275	308	390	333	323	359	410	356	468	348	309	330	337	416	502	387	316	425
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Personal Injury	25	17	24	21	21	37	33	29	15	19	27	12	38	23	19	33	30	32	31	22	27	13	24	32	30	36	23	39	39	21	27	19	15	33	17	24	28	53	27	24	32	
Prisoner Petitions	24	36	29	22	16	15	23	35	33	34	23	14	36	35	41	26	32	37	32	28	35	26	18	20	27	19	32	32	39	29	40	28	49	37	24	29	33	25	47	29	34	46
Civil Rights Employment	27	28	38	27	33	21	21	20	22	23	21	22	39	24	27	35	14	21	25	17	23	23	17	26	32	36	39	23	36	26	32	37	43	29	30	32	31	35	33	42	32	34
Civil Rights Other	43	33	62	41	44	35	47	46	47	43	36	43	57	47	64	51	61	48	49	53	67	58	33	57	50	51	72	55	63	71	67	53	81	56	38	68	41	51	61	57	48	62
Civil Rights ADA	3	3	10	2	2	2	7	6	4	2	3	1	1	3	4	2	7	5	1	6	3	3	2	7	4	1	8	1	2	3	2	6	9	8	5	1	4	3	5	9	11	
Antitrust	2	-	-	-	-	-	8	8	4	2	1	-	1	-	-	-	-	-	-	1	20	2	3	2	-	-	-	2	2	2	-	-	6	10	4	6	1	1	4	1	-	3
Patent	13	6	2	1	4	-	5	14	4	3	3	4	2	2	4	7	1	2	7	1	11	5	5	6	6	11	4	3	2	3	14	16	3	8	8	1	5	8	2	10	6	8
Labor Laws	12	11	23	17	21	13	9	17	18	11	9	12	9	21	16	18	17	11	14	18	13	22	27	16	23	20	17	31	14	20	25	29	20	11	23	25	20	27	20	11	24	
Contracts	47	45	62	48	40	50	39	68	34	53	36	45	60	55	48	121	66	42	63	39	47	42	33	52	48	45	84	62	60	72	81	52	96	69	60	55	75	101	109	94	51	76
All Others	56	57	98	70	85	45	68	91	82	69	55	53	73	76	75	75	88	70	71	73	90	60	61	73	50	92	105	94	67	95	127	112	136	95	93	94	101	143	163	102	101	129
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
GRANTED IN PART AND DENIED IN PART	373	263	587	250	319	299	300	356	392	289	287	227	302	336	547	296	326	318	342	384	472	332	270	360	303	371	587	289	377	428	435	438	565	405	401	348	354	409	718	428	412	495
Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Personal Injury	22	26	30	17	18	9	19	23	15	21	11	22	16	21	28	20	16	29	19	32	30	25	10	21	16	20	28	9	13	18	22	20	22	24	24	21	17	20	26	28	32	58
Prisoner Petitions	42	32	65	14	21	28	27	31	64	20	22	18	44	32	73	20	45	30	33	64	58	17	28	17	27	50	82	25	34	36	51	39	103	36	35	21	37	58	109	37	28	32
Civil Rights Employment	58	46	71	49	40	43	39	44	38	48	27	28	45	52	69	44	43	45	49	48	50	35	29	40	43	44	63	46	32	56	40	56	51	36	44	40	44	41	64	63	52	46
Civil Rights Other	75	50	153	55	97	76	66	72	77	64	74	52	55	69	122	58	52	67	58	64	91	72	55	59	70	77	152	58	62	100	84	77	91	89	64	68	57	83	132	79	82	86
Civil Rights ADA	6	6	6	1	2	5	2	8	5	3	3	4	9	3	12	7	5	3	6	2	7	9	5	5	9	3	20	9	7	3	8	5	8	4	7	4	3</					

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2. Does not include data on whether motions to dismiss were granted with or without leave to amend.
3. Data does not include MDL cases in either the total number of cases filed or the motions to dismiss.
4. The data were extracted directly from the text of 94 district court docket entries, rather than the official statistics system, and they did not pass through all the quality controls of the statistics system.

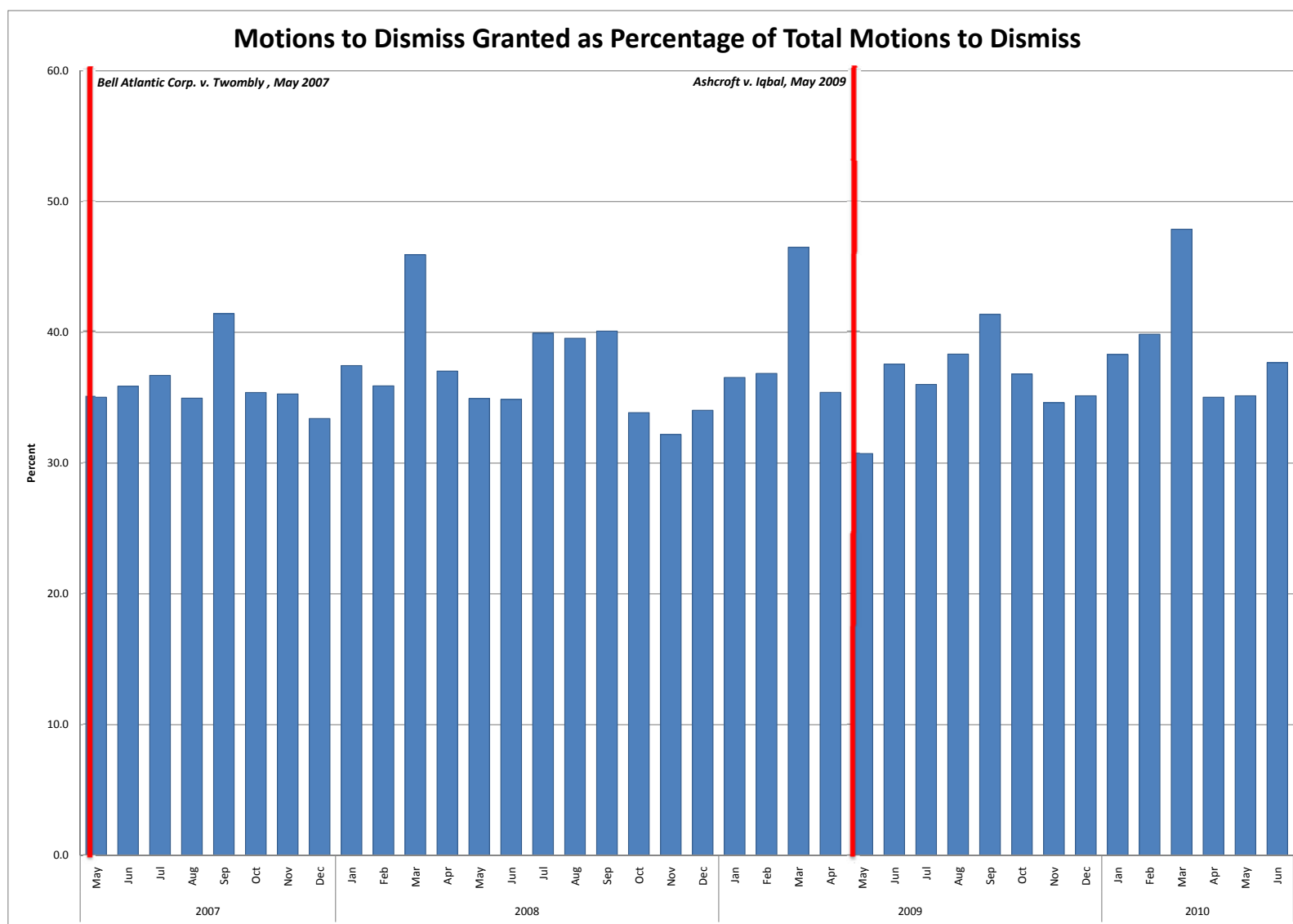
Motions to Dismiss by Nature of Suit



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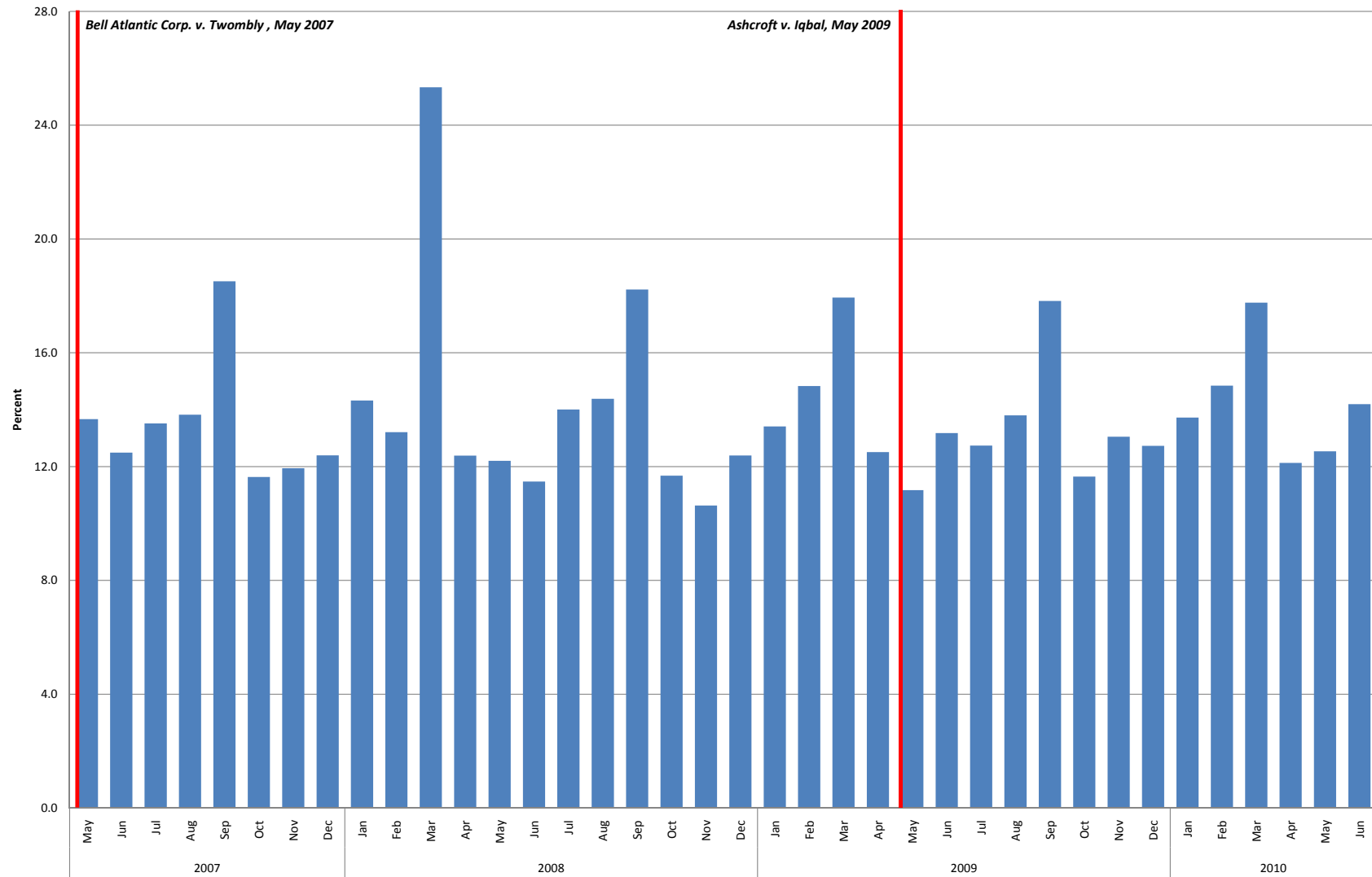


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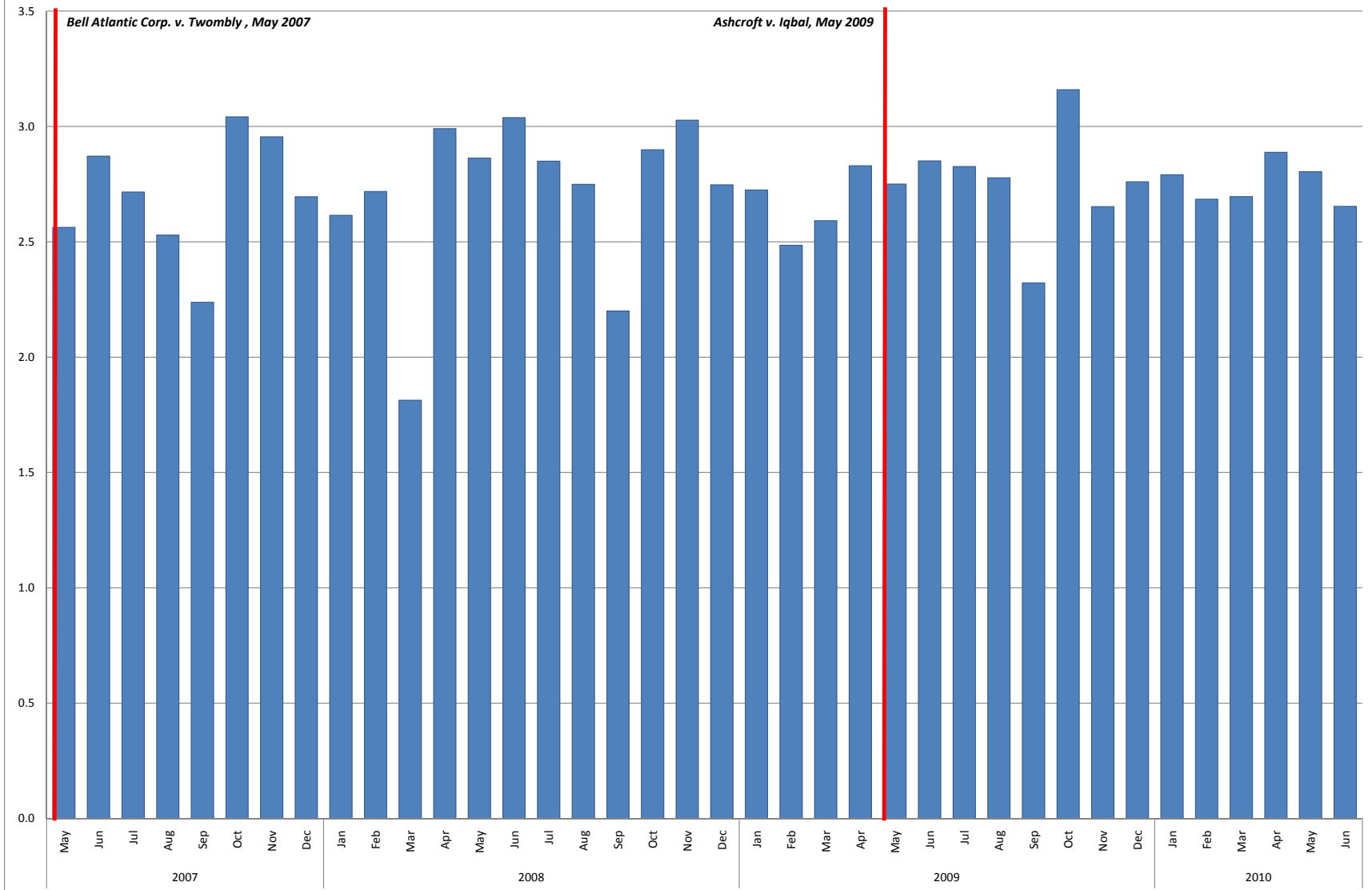
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Motions to Dismiss Denied as Percentage of Total Motions to Dismiss



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Ratio of Motions to Dismiss Granted in Relation to Motions to Dismiss Denied



1. Data includes motions to dismiss filed under Rule 12(b)(1)-(7) in cases filed from May 2007 through June 2010. Rule 12(b)(6) motions to dismiss cannot be broken out in this data.
2. Does not include data on whether motions to dismiss were granted with or without leave to amend.
3. Data does not include MDL cases in either the total number of cases filed or the motions to dismiss.
4. The data were extracted directly from the text of 94 district court docket entries, rather than the official statistics system, and they did not pass through all the quality controls of the statistics system.

MOTIONS TO DISMISS IN “CIVIL RIGHTS EMPLOYMENT CASES” AND “CIVIL RIGHTS OTHER CASES”
PRE-*TWOMBLY* (JUNE 2006 - JUNE 2007) AND POST-*IQBAL* (JUNE 2009 - JUNE 2010)*

Civil Rights Employment Cases

Monthly Average for Thirteen Months before *Twombly*

1,151 cases
539 motions to dismiss (47% of cases)
156 motions granted (14% of cases)
116 motions denied (10% of cases)

Monthly Average for Thirteen Months after *Iqbal*

1,203 cases
537 motions to dismiss (45% of cases)
189 motions granted (16% of cases)
81 motions denied (7% of cases)

Civil Rights Other Cases

Monthly Average for Thirteen Months before *Twombly*

1,342 cases
908 motions to dismiss (68% of cases)
254 motions granted (19% of cases)
169 motions denied (13% of cases)

Monthly Average for Thirteen Months after *Iqbal*

1,384 cases
950 motions to dismiss (69% of cases)
352 motions granted (25% of cases)
117 motions denied (8% of cases)

* 1. Data includes motions to dismiss filed under Rule 12(b)(1)-(7) in cases filed thirteen months before *Twombly* and thirteen months after *Iqbal*.

2. Does not include data on whether motions to dismiss were granted with or without leave to amend.

3. Data does not include motions to dismiss that were granted in part and denied in part.

4. Data does not include MDL cases in the number of motions to dismiss.

5. The data were extracted directly from the text of 94 district court docket entries, rather than the official statistical system, and they did not pass through all the quality controls of the statistics system.